N p4

1938

Department of Land Revenue and Settlement

OFFICE Board of Revenue

STATION Madras

Mis No. 2478

B4 26538

Dated 6.9.38

7 SEP 1938

Pages in the file

(SUBJECT.)

Assignment - land (Skanara) - Mangalore T
Mudadka Vge - SNO. 119/2 - Srinivasayya
Petition - Sanctioned.

Before the Hon'ble The Board of Revenue

At Madras.

Between:-

M. Srinivasayya... ... ... Petitioner.

&

M. Narain Rao ... ... Respondent.

Re: Assignment of Land - Mangalore Taluk -(South Kanara District)- Mulladka Village S.No118/2 - D.R.No405/1344 (Tahshildar Mangalore).

Darkhast Appeal.

Memorandum of Appeal by M. Srinivasayya residing at Koribettue Village Mangalore Taluk, against the order of the Collector in D.Dis 1245/38 Lated 8 3 1938 is as follows:-

1. The address for service of the Petitioner is that of his Advocate Mr. I.K.Deva Rao, at 336 Thambu Chetty Street G.T., Madras.

2. That the Learned Collector erred in ignoring the Petitioner's possession and enjoyment through himself and his tenants since 1912. The Petitioner developed it and converted it into a paddy plot and there is a coconut tree aged 26 years planted by Petitioner.

3. That the Learned Collector erred in ignoring the fact that even the Respondent impliedly recognised the absolute right of ownership to the disputed plot as no mention has been made of the said plot in the family Karar, to which the Petitioner and Respondent were parties and which was written by the Respondent in his own hand. It is also significant that no mention has been made in the subsequent partition deed between the Respondent and Petitioner and another and therefore

it could not have been an improvement on behalf of the family.

4. That the Learned Collector ignored that the Respondent himself in his written statement Ð/11 1 34. in O.S.No545/33(on file of District Munsif Court Karkal) denied any sort of enjoyment of the family property by him at any relevant period, – (produced before the Learned Collector along with a petition d. 3.12.'37 by the Petitioner) Ld.

5. The Learned Collector erred in ignoring the fact that the Revenue Divisional Officer who was new to the District and not well aware of the custom and practice in the District laid undue stress on the absence of genchits, with the Petitioner. No lease deeds (genchits) are obtained by landlords from trustworthy tenants. It is significant that not a scrap of paper has been produced by the Respondent in support of his claim.

6. The Learned Collector erred in not noting that no notice was given to the Petitioner by the Revenue Divisional Officer of his inspection while the Respondent was fully reprsented by his Advocate and the Shanubogue who is the Petitioner's enemy in collusion with the Respondent changed the position of the Survey Stones and succeeded in creating the false impression that the Survey boundary Line runs inside the Respondent's land S.No31/13. The Petitioner was not in a position to present his case clearly before the Revenue Divisional Officer. Further S. No. 31/13 was in the joint names of the Petitioner and Respondent till 1933 when it fell to the share of the Respondent Ld.

7. The Learned Collector erred in not noting that the views of the Revenue Divisional Officer were therefore one sided and prejudiced in favour of the Respondent.

The Revenue Divisional Officer also failed to give full legal effect to the documentary evidence adduced by the Petitioner.

8. The Learned Collector erred in not adopting the order of the Tahshildar made after elaborate enquiry and detailed personal inspection of the disputed plot.

9. The Learned Collector should have therefore held that the Petitioner was the absolute owner of the disputed plot being the person who made the improvement and has been in continued possession of the same since 1912, and was first to apply for Darkast which was granted in Petitioner's favour, without the Respondent taking any action till two years thereafter.

Dated at Mangalore this 30th day of May 1938.

I. K. Deva Rao

Advocate for Petitioner.

6

S. Kanara Dt Mangalore Tk

Before the Honorable
The Board of Revenue
at Madras

Appeal by M. Srinivasaka

Encl Vakalat Stamp As 2/-
Memo of Appeal memos.
Order of Collector of 9.3.38
D. Dis 1245/38.

Mr. P. K. Deva Rao
Adv for Petitioner

7

VAKALAT.

In the Court of the Before the Honorable Board of Revenue At Madras

~~Suit~~ PETITION NO. _____ 1938.

Between

M. Srinivasayya ~~Plaintiff~~ ~~Petitioner~~ Petitioner

AND

M. Narain Rao ~~Defendant~~ *Respondent.*

I, M. Srinivasayya

do hereby appoint and retain Mr. I. K. Deva Rao Advocate to appear for me in the above ~~Suit~~ Petition and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application for execution of any decree or order passed therein I empower my Vakil to appear in all miscellaneous proceedings in the above suit or matter till all decrees or orders are fully satisfied or adjusted and to obtain the return of documents and draw any moneys that might be payable to me in the said suit or matter.

In witness whereof I have hereunto set my hand this the 30th day of May 1938

Date 30/5/1938

I. K. Deva Rao

The address for service of the said Vakil is

No 336 Thambu Chetty St.
G. T. Madras.

I K Deva Rao

Signed before me by the executant this the 30th day of May 1938. The contents of this vakalat having been translated to the executant in Kannada and admitted by him to be correct.

9

D.Dis.1245/38.

Proceedings of the Collector of South Kanara dated the 8th March 1938.

M.R.Ry. Rao Bahadur M.V.Vellodi, Avl.,B.A.

Assignment - Land - Mangalore Taluk - Mulladka village - S.No.118/2 - Revision petition - Dismissed -

Petition dated 26.2.1938 of M. Shrinivasaya, son of M. Venkappaya of Mulladka village, Mangalore Taluk.

Copies of Mangalore Tahsildar's order D.R.405/44, dated 19.3.36 and Mangalore Revenue Divisional Officer's order in appeal D.Dis.6440/36 dated 9.12.37.

ORDER.

I decline to interfere in revision. The petition is dismissed.

(By order)

9.3.38

Huzur Sheristedar.

To

The petitioner M. Shrinivasaya, son of M. Venkappaya of Mulladka village, Mangalore Taluk.

Copy to the Revenue Divisional Officer, Mangalore.

9-3-38.

RJ(Lia)

11

J.F.A.

C.F. 16

DRAFT FOR APPROVAL.

	Date:	Initials.
When received for fair copying ..	27/6	
When copied ..	28/6	
When examined..	29/6	HWTSR
When signed ..		
When despatched.		

SUBJECT:— Assignment - Land - (S. Kanara Mangalore Taluk - Mulladka village — S. No. 118/2 - Srinivasayya - Petn - records called for -

Dt 29/6

READ AGAIN with letter to ... dated ... 19....

" " ... " ... 19....

READ *ALSO*:—

Pet-5cf B No. 4265 From the Petn No. ..., dated 30/5/1938. Q

" ... " ... " ... " ... 19....

" ... " ... " ... " ... 19....

Ref B. ~~Order — Ms. Resolution Rout.~~ No. 4265/38-1, dated 25.6.1938.

Forwarded to the Collr of South Kanara for submission of the records with any remarks which he considers necessary regarding the allegations in the petn which are not clearly dealt with in the records.

Cbr 27/6/38

RJ 25/6

RJ 24/6/38

The Collector of South Kanara with a petn. & Enclosure P.P. 1-5 cf + 9 cf. to be returned with reply

18

R.P 18
B 5486

D.Dis.4110/38. South Kanara Collector's Office,
Mangalore, dated 22nd July 1938.

Sri Rao Bahadur M.V.Vellodi, B.A.,
Collector of South Kanara.

To

The Secretary to the
Board of Revenue, Madras.

Sir,

ASSIGNMENT - Land - Mangalore Taluk - Pullikal village - S.No.118/2 - Srinivasayya - Petition - Rejected -

****

Board's Refce: B.No.4265/38-1 dated 25.6.1938.

****

I resubmit herewith the darkhast revision petition of M. Srinivasayya with all its enclosures received with Board's reference B.No.4265/38-1 dated 25.6.1938.

2. The plot in dispute, S.No.118/2 is a tiny subdivision measuring 5 cents registered as assessed waste dry. It forms kumeki to S.No.31/13 which stands registered in the name of the counter petitioner. The plot has been converted into a paddy flat and contains a bearing coconut tree. Both the petitioner and counter petitioner claim the plot on grounds of possession and enjoyment of the plot.

3. The Tahsildar inspected the plot and assigned it to the petitioner in his order D.R.405/44 dated 19.3.36. On appeal preferred by the counter petitioner the Revenue Divisional Officer inspected the land and for reasons stated by him he cancelled the Tahsildar's order and assigned the plot to the counter petitioner in his Proceedings D.Dis. 6440/36 dated 9.12.37. The petitioner then sought revision of the Revenue Divisional Officer's order, but,

I refused to interfere in revision as I found from a perusal of the Revenue Divisional Officer's order that the petitioner had no case and I therefore dismissed the revision petition in my Proceedings D.Dis.1245/38 dated 9.3.1938. (Q) p.19.

4. The petitioner's main contention is that though the plot forms kumaki to the Kadim land S.No.31/13 allotted to the counter petitioner under a partition deed effected in their family, he improved the plot long ago on his own account and not on behalf of the family and that therefore the plot which is even now in his possession and enjoyment was rightly assigned to him by the Tahsildar after personal inspection and enquiry. He disputes the conclusions arrived at by the Revenue Divisional Officer during his inspection as it was made without notice to him. I do not think that there is any force in the petitioner's contention. The petitioner has no lands in the vicinity. There is no access to the plot except through S.No.31/13 which as admitted by the petitioner himself in his statement dated 24.4.37 before the Revenue Divisional Officer was all along in the enjoyment of the counter petitioner and which went to the share of the counter petitioner at the partition in the family. It is therefore inconceivable how the petitioner could convert the plot into a paddy flat without the consent of the counter -- petitioner between whom and the petitioner there is admittedly no love lost. As regards the Revenue Divisional Officer's inspection, the Revenue Divisional Officer says that he made the inspection without giving notice to either party. The Revenue Divisional Officer was convinced at his inspection that the plot had been in the possession and enjoyment of the --- counter petitioner and he has given convincing reasons in his order for holding that it was so.

5. The connected records as noted in the margin are enclosed.

(V) 1. Taluk D.R.405/44 dated 19.3.36.
(P) 2. Mangalore Rev.Divl. Officer's file D.Dis. 6440/36 dated 9.12.37.
(Q) 3. Huzur file D.Dis.1245/38 dated 9.3.38.

For Collector.

No. 190

For Insurance Notices see reverse.
Stamps affixed except in case of uninsured letters not exceeding 2½ tolas or one ounce in weight or on which no acknowledgment is due.

Rs. 7-2 As.

Date-stamp.

Received a registered * ——————

addressed to ——————

——————

——————

* Write here "letter," "postcard," "packet" or "parcel" with the word "Insured" before it when necessary.

Initials of Receiving Officer.

If insured.

Insured for Rs. (in figures)—————— *(in words)*——

——————

Insurance fee Rs.——— *As.*——— *(in words).*

Weight } *Rates*
Tolas

Name and address of sender. ——————

——————

NOTICE (1).—The Post Office is not responsible for loss or damage in the case of inland registered articles, unless they are also insured.

(2).—The special conditions and restrictions as to insurance which will be found in the current edition of the Post and Telegraph Guide are binding upon every sender of an Insured postal article by virtue of rules prescribed under the Indian Post Office Act, 1898.

C.F. 16.

DRAFT FOR APPROVAL. 7.W.S

	Date.	Initials.
When received for fair copying ..	6/9	Sh.
When copied ..	6/9	GS
When examined..	6/9/38	AR/NR
When signed	9/9.	
When despatched.		

SUBJECT:— Assignment - Land (S. Kanara) Mangalore Tk - Mulladka Vge - S No 118/2 - Srinivasayya, M - Petition dismissed

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:-

1-8 cf. No. 4265 From the Petr thro' his advocate No. _____, dated 30-5-1938.

" 5486 " Collr of S. Kanara, D Dis 4110/38 dated 22-7-1938 to the Collr only

" _____ " _____ " _____ " _____ 19____.

~~Order~~ Resolution ~~Rout.~~ Ms. No. ~~2478~~, dated 6-9-1938.

hve
6/9
1-8 cf.

(P)

The petn. cited above is a revn petn against the Colrs order D. Dis 1245/38 dy 8-3-38 declining to interfere with the R.D.'s order assigning S. No 118/2 of Mulladka Vge, Mangalore Tk to the counter petitioner

The Board has perused the connected records. It observes that the land is a tiny plot of land measuring 5 cents and forms kumaki to S. No. 31/13 which stands registered in the name of the counter petitioner. The R.D.O's orders assigning the

land to the counter petr and the Addl order declining to interfere with the R.D.O's order are correct. The Board sees no reason to interfere on behalf of the petr. The petn is dismissed.

5/3/38

To Sri D.K. Devaraj
Advocate
No. 336, Thambu Chetti St.,
G.T. Madras.

To The Addl C of S. Kanara
with records

1) Taluk O.R. 405/44 dt/19.3.38
2) Mangalore R.D.O's file Dis 6440/36 dt/9.12.37
3) Addl's file O Dis 1245/38 dt/9.3.38

D/d with records

A.S.(L'R)

Note File.

Assignment - Land -(S.Kanara) - Mangalore taluk - K Mulladka village - S.No.118/2 - Srinivassayya - Petition.

PP 1-5

B4265 Petition dated 30-5-38.

To Asstt. Secy.

Please see the petition at PP-1-5-C.F.

This is a petition for revision of the collr's order at P.9 C.F. The petn. is adequately stamped and is in time.

The allegations in the petn. are:--

1. that the petr. has been in occupation and enjoyment of the disputed land ever since 1912

2. that he has developed and converted the land into a paddy ground

3. that the petr. was not in a position to present his case clearly before the R.D.O as no notice had been given to the petr. of R.D.O's inspection

4. that the petr. was the first to apply for dharkast which was granted in his favour to which no objection was raised by the respondent for two years.

As the collr's order at P.9 C.F. does not contain reasons for meeting the allegations it seems necessary to call for the records from the collr and examine them.

Yes. 21/6/38

For orders.

15/6/38 17.6.

A.S.(L'R)

To Asstt. Secy.

Draft Submitted

22/6/38 24/6/38

ale/b

M2/A.S(L.R)

Issued as Bdl reflex B 4265/38-1 dt 25-6

B. 5486. From the Collr of S. Kanara

A.S(L.R)

Pl see the petn at 1-5 of the Collr's report at 13-14 of and the sketch at p. 59 of (P).

p. 3. of (J)

In his order D.R 405/44 dt 19.3.36 the Talk of Mangalore assigned S.No. 118/2 measuring 5 cents of Mulladka Vge to the Bdl's petr: The Counter petr preferred an appeal to the R.D.O who cancelled the Talk's order and directed the assignment of the land to the counter petr. Pl see the R.D.O's order at pp 69-70 of (P). The revn petn preferred by the petr to the Collr was dismissed by him. The petr has now come up to the Board.

19 of (Q)

In para 4 of the letter at p 14 of the Collr has dealt with the contentions of the petr. The land in question forms Kumaki to the Counter-petr's land S No. 31/13. Pl see para 10 (1) of BS 015-40. The R.D.O's and the Collector's orders are correct. There are no grounds for interference. The petition may be dismissed for order.

p. 59 of (I)

Note from p. 3 may be used

LR 2578 dt 29.8.36

30825

M2 31/8

SECY. 31 AUG 1936

To AS(L-R)

ASLR

Draft subtd.

hw
1/9.

5/9

5/9

CIRCULATIO CHECK SLIP.

B.P. No. Mis 2478

Dated 6-9-38.

Single Member.

Two Members.

Full Board.

I-A | A.D.S. & L.R. | Asstt: Secy: L.R. Sett. | Dep: Rev. | J.S. Secy. | M-3 | M-2 | M-I

---

(1) Open file seen by

(2) Final draft seen by

(3) Now circulated to.

(4) Initials.

** Secretary

Jt. Secretary.

Passed for record.

A.S. (L.R)

~~A.S. (Sett).~~

A.S. (Dep:Rev)

A.D.S & L.R.

I-A.

** Note -- ENTRIES NOT REQUIRED TO BE SCORED OUT.